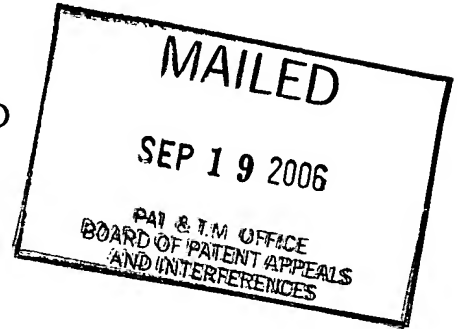


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHEN COPELND

Application No. 10/783,793



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 10, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An Information Disclosure Statement (IDS) was filed on August 17, 2004. A review of the Image File Wrapper reveals that the examiner has not considered the IDS. According to MPEP § 609 which states:

“ . . . The Examiner must also fill in his or her name and the date the information was considered in blocks at the bottom of the PTO-1449 or PTO/SB/08A and 08B form.”

On December 15, 2005, appellant filed an Appeal Brief. A review of the file reveals that the Summary of Claimed Subject Matter does not map the independent claims to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

On March 3, 2006, an Examiner's Answer was entered into the record. On page 3 of the Examiner's Answer, the examiner cites "Spadea 6,559,734" as prior art of record. However, under the heading "(9) Grounds of Rejection" page 4, the first paragraph, examiner references Spadea 6,550,734. A clarification of which reference is the prior art relied upon in the rejection is required.

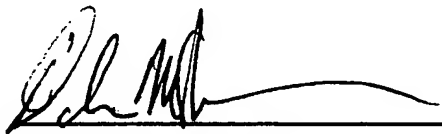
Accordingly, it is

ORDERED that the application is returned to the Examiner for:

- 1) consideration of the IDS;
- 2) hold the Appeal Brief of December 15, 2005 defective;
- 3) request applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 4) for the examiner to consider the substitute Appeal Brief, and if necessary, vacate the Examiner's Answer mailed March 3, 2006, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- 5) to clarify which Spadea reference is to be considered as the prior art; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:


DALE M. SHAW
Deputy Chief Appeals Administrator
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DMS/dal

Application No. 10/783,793

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